

ECS File: JPA 90-120
Tempe File: C90-162
FAA Ref.#:
Project: H 2221 01C
Section: Papago Park Center/
VORTAC Relocation

MEMORANDUM OF AGREEMENT
AMONG
THE STATE OF ARIZONA,
THE CITY OF TEMPE,
THE PAPAGO PARK CENTER, INC.
AND

THE UNITED STATES FEDERAL AVIATION ADMINISTRATION

THIS AGREEMENT is entered into November 05, 1990, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State"), the CITY OF TEMPE, acting by and through its City Council (the "City"), the PAPAGO PARK CENTER, INC., acting by and through its Board of Directors (the "Center"), and the FEDERAL AVIATION ADMINISTRATION, WESTERN-PACIFIC REGION, acting by and through its Contracting Officer (the "FAA").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-108 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes Section 48-572 and City Charter, Section 103 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City.

3. The Center is empowered to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the Center.

4. The FAA is empowered by Section 307 (b) of the Federal Aviation Act of 1958 (49 U.S.C. 1348 (b) as amended, to enter into this agreement and has resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the FAA.

5. Currently, the Center's Planned Area Development building heights, as approved by the City Council action dated February 9, 1989, will be in conflict with the proposed relocation of the Salt River Very High Frequency Omni Range Tactical Aircraft Navigation facility, (VORTAC), causing the VORTAC to be inoperable.

6. The purpose of this agreement is to designate criteria for the Center to proceed with its development within these designated criteria, as outlined on Attachment "1", attached hereto and made a part hereof, which will eliminate any conflict by establishing the maximum height of the buildings, thereby allowing the State and FAA to proceed with the relocation of the existing VORTAC, and described as follows:

That part of the North half of Section 17, Township 1 North, Range 4 East, of the Gila and Salt River Meridian, Maricopa County, Arizona, described as follows:

Commencing at the center corner of said Section 17; thence North 0°44'15" West along the midsection line of said Section 17, a distance of 1856.86 feet to the TRUE POINT OF BEGINNING; thence from a local tangent bearing of North 80°18'17" East along a curve to the right having a radius of 7000.00 feet, a length of 377.58 feet; thence South 6°36'17" East 63.00 feet; thence South 19°51'33" West 770.33 feet; thence South 80°51'54" West 480.00 feet; thence North 14°08'06" West 720.00 feet; thence from a local tangent bearing of North 75°51'54" East along a curve to the right having a radius of 7000.00 feet, a length of 542.42 feet to the TRUE POINT OF BEGINNING, herein referred to as the proposed 1.8 mile site. (See Attachment #1).

7. The following conditions define the actions to be taken by the parties that eliminate any potential adverse effects between the Planned Area Development and the VORTAC's proposed 1.8 mile site.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. State will:

Reimburse the Center within forty-five (45) days of receipt of invoice for actual costs to replan and redesign that portion of the Planned Area Development affected by the VORTAC's proposed relocation. The cost estimates are detailed as follows:

Papago Park Center Staff	\$ 22,000
Planning Consultant	75,000
Legal Costs	25,000
Brochure Reprinting	<u>35,000</u>
TOTAL	\$157,000

2. City will:

a. Expedite the rezoning and planning process to amend the Planned Area Development and waive all fees associated with those processes.

b. Immediately place the issue on a City Council pre-session or other appropriate agenda to inform the City Council and obtain their support for the replanning effort.

c. Maintain the previously approved square footages of the parcels. Recommend approval of increased lot coverages to maintain the same square footages per parcel.

d. Use its best efforts to obtain City Council approval of the revised Planned Area Development with all appropriate variances, use permits, and conditions acceptable to both the City and the Center.

e. Upon receipt of written confirmation from the FAA that the redesigned Planned Area Development conforms to all FAA air space criteria for the VORTAC, the City Council will remove the FAA stipulations contained in the City Council Action dated February 9, 1989.

3. Center will:

a. Replan the portions of the Planned Area Development affected by the VORTAC. Redesign the structure heights to be at or below the elevation criteria required by the FAA for the operation of the VORTAC at the proposed 1.8 mile site.

b. Provide to the FAA, a copy of the City Council approved redesigned Planned Area Development and a letter

requesting written confirmation from the FAA that the redesigned Planned Area Development conforms to all of the airspace criteria for the VORTAC, and therefore will not be in conflict with the VORTAC operation.

c. Invoice the State monthly providing copies of consultant invoices, direct expenses and time sheets for internal staff time.

4. FAA will:

a. Within 90 days after receipt of the redesigned Planned Area Development documents, which comply with the criteria set forth in Attachment 1 and 2, review said documents and submit to the Center written confirmation that the redesign conforms to all FAA airspace criteria for the VORTAC and therefore the buildings constructed in accordance with this plan will not be in conflict with the VORTAC operation.

b. By signature to this agreement, concur with the terms herein and approve the proposed 1.8 mile site for the relocation of the VORTAC.

c. Following the mound construction, placement of the antenna and location of the operations building projected to be completed by March 31, 1991, with FAA beneficial occupancy of the operations building by March 1, 1991 or 30 days prior to completion, whichever comes first, FAA will complete flight and instrument testing, related operational functions and commission the new VORTAC within five (5) months. These activities must be completed by August 31, 1991. FAA will use its best efforts to meet the State's freeway construction schedule.

III. MISCELLANEOUS PROVISIONS

1. This agreement shall remain in force and effect until all items of this agreement have been satisfied, and build-out is completed within the Planned Area Development for the Center.

2. This agreement shall become effective upon execution by all parties.

3. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

4. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this agreement.

5. If for any reason the revised Planned Area Development is not approved by the City Council with all appropriate variances, use permits and conditions acceptable to both the City and the Center, then the obligations of this agreement shall become null and void, except for the reimbursement obligation set forth in Section II, paragraph 1 on page 3, with the responsibility of the State being limited to the actual cost of the planning, redesign and processing effort in accordance with the City Council's initial determination of the redesigned Planned Area Development in a formal public hearing.

6. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 South 17 Avenue, Room 118E
Phoenix, AZ 85007

City of Tempe
City Manager
P. O. Box 5002
Tempe, AZ 85281

Papago Park Center, Inc.
Development Manager
P. O. Box 52025
Phoenix, AZ 85071-2025

Federal Aviation Administration
Regional Administrator
P. O. Box 92007
Worldway Postal Center
Los Angeles, California 90009

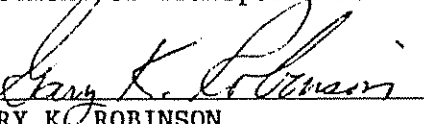
IN WITNESS WHEREOF, the parties have executed this agreement
the day and year first above written.

CITY OF TEMPE

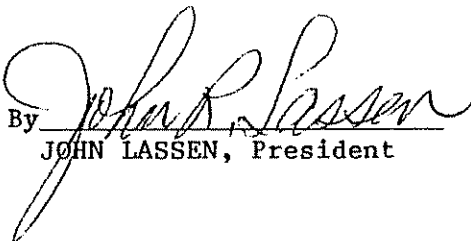
By 
HARRY E. MITCHELL
Mayor

STATE OF ARIZONA


Department of Transportation

By 
GARY K. ROBINSON
Chief Deputy State Engineer

PAPAGO PARK CENTER, Inc.

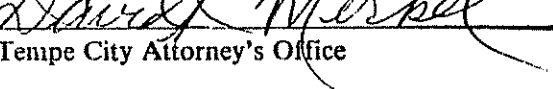
By 
JOHN LASSEN, President

THE UNITED STATES OF AMERICA
Federal Aviation Administration
Western-Pacific Region


By 
CARL B SCHELLENBERG
Acting Regional Administrator

Approved As to Form

Date: 10-24-90

By 
Tempe City Attorney's Office

ATTEST:


Helen R. Fowler, CMC
City Clerk
City of Tempe

ATTACHMENT #2

The physical presence of a structure and/or the electromagnetic signals reflecting therefrom may have an adverse affect on the availability or quality of navigational signals needed for the safe operation of aircraft. The criteria given below are FAA recommended guidelines for ensuring that such an adverse effect does not occur.

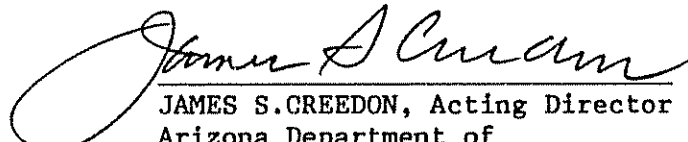
No structures should penetrate a vertical angle of 1.2 degrees above the horizontal measured from the ground elevation at the center of the antenna site. The coordinates and elevation for the relocated Salt River VORTAC are defined below:

Latitude:	33 degrees 25 minutes 58.70 seconds North
Longitude:	111 degrees 58 minutes 10.19 seconds West
Elevation:	1182 feet above mean sea level

RESOLUTION

BE IT RESOLVED on this 19th day of October 1990, that I, JAMES S. CREEDON, as Acting Director of the Arizona Department of Transportation, have determined that it is in the best interest of the State of Arizona that the Department of Transportation, acting by and through the Highways Division, to enter into an agreement with City of Tempe, Papago Park Center Inc. and the U.S. Federal Aviation Administration for the purpose of defining responsibilities for constructing the relocation of a Very High Frequency Omni Range Tactical Aircraft Navigation (VORTAC) facility.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted for approval and execution by the Chief Deputy State Engineer.


JAMES S. CREEDON, Acting Director
Arizona Department of
Transportation

I, Helen R. Fowler, the City Clerk of the City of Tempe, Maricopa County, Arizona, do hereby certify the attached to be a true and exact copy of Resolution No. 90.59 adopted at the Tempe City Council Meeting of October 25, 1990, City of Tempe, Maricopa County, Arizona.

DATED this 26th day of October, 1990

A handwritten signature in cursive script, reading "Helen R. Fowler", written over a horizontal line.

Helen R. Fowler, CMC
City Clerk

RESOLUTION NO. 90.59

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
TEMPE, ARIZONA, AUTHORIZING THE MAYOR TO SIGN
AN AGREEMENT WITH THE STATE OF ARIZONA,
PAPAGO PARK CENTER, THE FEDERAL AVIATION
ADMINISTRATION AND THE CITY OF TEMPE

WHEREAS, the City of Tempe wants to facilitate the relocation of the VORTAC, and

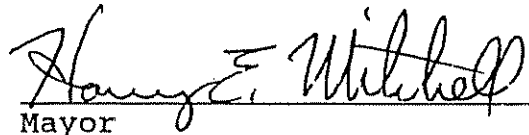
WHEREAS, the City of Tempe wishes to assist Papago Park Center in the development of their Planned Area Development, and

WHEREAS, the City of Tempe wants to cooperate with the Arizona Department of Transportation on the construction of the East Papago Freeway,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA;

that the City of Tempe, Arizona, hereby authorizes the Mayor to sign an agreement with the State of Arizona, Papago Park Center, the Federal Aviation Administration and the City of Tempe.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this 25th of October, 1990.



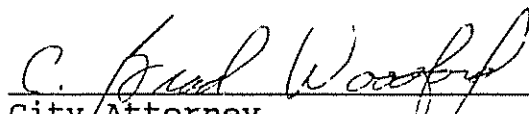
Mayor

ATTEST:



City Clerk

APPROVED AS TO FORM:



City Attorney

CERTIFICATE OF SECRETARY OF PAPAGO PARK CENTER, INC.

The undersigned duly appointed, qualified and acting Secretary of Papago Park Center, Inc., an Arizona corporation (the "Corporation"), hereby certifies as follows:

1. The following action is reflected in the minutes of the meeting of the Board of Directors of the Corporation held on October 10, 1990 (the "Board Meeting"):

On a motion made by Director Arnett and seconded by Director Schrader, approval was granted authorizing the Corporation to enter into, and authorizing and directing the President or Secretary of the Corporation on behalf of the Corporation to execute and deliver, a Relocation Agreement with FAA, ADOT and the City of Tempe for the VOR relocation upon the terms and subject to the conditions presented to the Board, such Agreement to be in such form as the officer so acting may determine to be appropriate and in conformity with the terms and conditions so presented to the Board.

2. The action set forth in paragraph 1 above was passed and adopted at the Board Meeting at which a quorum was present and acting throughout, and said action was adopted by a vote of a majority of a quorum. Said action has not been amended, rescinded or changed in any respect and remains in full force and effect as of the date hereof.

DATED: OCTOBER 23, 1990.



C. A. Howlett, Secretary